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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/441,936	11/17/1999	GUST H. BARDY	90980054-1	5202
28159	7590	01/26/2005	EXAMINER	
ATL ULTRASOUND P.O. BOX 3003 22100 BOTHELL EVERETT HIGHWAY BOTHELL, WA 98041-3003			MULLEN, KRISTEN DROESCH	
			ART UNIT	PAPER NUMBER
			3762	

DATE MAILED: 01/26/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b> 09/441,936	<b>Applicant(s)</b> BARDY ET AL.	
	<b>Examiner</b> Kristen Mullen	<b>Art Unit</b> 3762	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 19 October 2004.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-12, 15, 16 and 20-23 is/are allowed.
- 6) ☒ Claim(s) 13, 14 and 17-19 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 17 November 1999 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)  | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. The indicated allowable subject matter of claim 14 is withdrawn in view of the newly discovered reference(s) to Karaguezuian et al. (5,817,132). Rejections based on the newly cited reference(s) follow.

#### *Claim Rejections - 35 USC § 102*

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 13, and 19 are rejected under 35 U.S.C. 102(b) as being anticipated by Alferness et al. (5,403,353).

Regarding claim 13, Adams et al. shows a method, comprising: receiving a cardiac signal from a patient; determining from the signal with a portable external analyzer whether the patient is experiencing atrial fibrillation (Col. 6, lines 57-62); receiving a shock command from an operator; and shocking the patient with a portable shock generator in response to the shock command if the patient is experiencing atrial fibrillation Col. 6, line 63- Col. 7, line 9);

Regarding claim 19, Alferness et al. shows shocking comprises shocking the patient during a rising edge of an R wave in the cardiac signal (Col. 7, lines 10-50).

4. Claims 13, and 17-18 are rejected under 35 U.S.C. 102(b) as being anticipated by Karaguezuian et al. (5,817,132).

Regarding claim 13, Karaguezian et al. shows a method, comprising: receiving a cardiac signal from a patient; determining from the signal with a portable external

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analyzer whether the patient is experiencing atrial fibrillation; receiving a shock command from an operator; and shocking the patient with a portable shock generator in response to the shock command if the patient is experiencing atrial fibrillation (Fig. 2; Col. 2, lines 15-26; Col. 8, lines 9-21).

With respect to claim 17, Karaguezian et al. shows receiving a cardiac signal from a patient, determining from the signal whether the patient is experiencing atrial fibrillation wherein the step of determining comprises determining the patient's heart rate, and determining the patient is not in atrial fibrillation if the heart rate is outside a predetermined range (240 bpm and up) (Col. 8, lines 9-21).

With respect to claim 18, Karaguezian et al. further shows determining from the cardiac signal with the portable analyzer whether the atrial fibrillation terminates after shocking the patient (Col. 9, lines 11-31).

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. Claim 14 is rejected under 35 U.S.C. 103(a) as being unpatentable over Karaguezuian et al. (5,817,132) as applied to claim 13, and further in view of Ferrari (5,824,033). Karaguezuian et al. is as explained before. Karaguezuian et al. shows applying defibrillator pads (74) to the patient and shocking the patient via the pads (Fig. 2; Col. 2, lines 15-26). Although Karaguezuian et al. fails to show receiving the cardiac

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signal via the defibrillator pads but shows receiving the cardiac electric signal by separate electrodes (ECG), attention is directed to Ferrari who shows defibrillator pads that are also used for receiving cardiac electrical signals (Col. 8, lines 51). It would have been obvious to one with ordinary skill in the art at the time the invention was made to utilize defibrillation pads capable of receiving cardiac electrical signals as Ferarri teaches in the method of Karaguezuian et al., since it is well known in the art to utilize combination defibrillator/ECG pads as a means for limiting the number of electrodes applied to the patient and the number of connections to the external defibrillator.

***Allowable Subject Matter***

7. Claims 1-12, 15-16, and 20-23 are allowed.

***Response to Arguments***

8. Applicant's arguments with respect to claims 13, and 17-19 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any

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extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Kristen Mullen whose telephone number is (571) 272-4944. The examiner can normally be reached on M-F, 10:30 am-6:30 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Angela Sykes can be reached on (571) 272-4955. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

*Kristen Mullen*

kdm

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